

REMARKS

This Application has been carefully reviewed in light of the first Office Action mailed April 14, 2006. To clarify various aspects of inventive subject matter and in some cases to remove unnecessary limitations, Applicants amend Claims 1, 13, 21, 29, and 56. Applicants also introduce new Claims 98-111 and cancel Claims 84-97 without prejudice or disclaimer. In order to advance prosecution of this Application, Applicants have responded to each notation by the Examiner. Applicants submit that all of the pending claims are allowable over the cited references. Applicants respectfully request reconsideration and favorable action in this case.

Claim Rejection 35 U.S.C. § 112

The Examiner rejects Claims 12-13, 28-29, 47-48, 60-61, 75, and 77-78 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. In particular, the Examiner argues that the phrase “substantially similar” is a subjective phrase and no guidelines are given as to how similar the two scripts or queries must be. *See* Office Action, Page 4). Applicants respectfully disagree.

Applicants note that the essential inquiry pertaining to the definiteness requirement is whether the claims set out and circumscribe subject matter with a reasonable degree of clarity and particularity. Definiteness of claim language must be analyzed, not in a vacuum, but in light of: (a) the content of the particular application disclosure; (b) the teachings of the prior art; and (c) the claim interpretation that would be given by one possessing ordinary skill in the art at the time the invention was made. M.P.E.P. § 2173.02. Furthermore, the test for indefiniteness under Section 112, second paragraph, is whether “those skilled in the art would understand what is claimed when the claim is read in light of the specification.” M.P.E.P. §2173.02 (citing *Orthokinetics, Inc. v. Safety Travel Chairs, Inc.*, 806 F.2d 1565, 1576 (Fed. Cir. 1986)). Applicants respectfully submit that the meaning of Claims 12-13, 28-29, 47-48, 60-61, 75, and 77-78 would be clear to one of ordinary skill in the art at the time of invention such that these claims comply with 35 U.S.C. § 112, second paragraph. Applicants discuss Claim 12 as an example. The relevant portion of Claim 12 recites that “the second script comprises a second plurality of queries that are substantially similar to a first plurality of queries associated with the first script.”

The M.P.E.P. and the courts clearly condone the use of the term “substantially” in claims. See M.P.E.P. § 2173.05(b).D citing *Andrew Corp. v. Gabriel Electronics*, 847 F.2d 819, 6 U.S.P.Q.2d 2010 (Fed. Cir. 1988). Moreover, Applicants respectfully submit that the meaning and scope of Claim 12 would be clear to one of ordinary skill in the art at the time of invention, whether the claim is read alone or in combination with the Specification. For example, Applicants respectfully direct the Examiner attention to at least Page 12, Line 28 through Page 13, Line 6; Page 24, Lines 1-14; Page 28, Line 29 - Page 29, Line 5; and Page 31, Lines 15-25, which provide example descriptions corresponding to these claims. Claim 12 and the claims that depend therefrom, are therefore definite. For substantially analogous reasons, Claims 28-29, 47-48, 60-61, 75, and 77-78 are also definite.

The scope of Claims 12-13, 28-29, 47-48, 60-61, 75, and 77-78 is reasonably ascertainable by those skilled in the art and thus the claims are not indefinite. See M.P.E.P. § 2173.05(e) (citing *Ex parte Porter*, 25 USPQ2d 1144, 1145 (Bd. Pat. App. & Inter. 1992)). Applicants respectfully request the Examiner to withdraw the rejections under 35 U.S.C. § 112, second paragraph.

Claim Rejection 35 U.S.C. § 102

The Examiner rejected Claims 1-2, 4-6, 8-10, 12, 14-18, 21-22, 24-26, 28, 30-34, 37-41, 43-45, 47, 49-63, 56-60, 63-64, 66-68, 70-75, 77, 79-80, and 82-83 under 35 U.S.C. § 102(b) as being anticipated by U.S. Pre-Grant Publication 2004/0161078 to Knott et al. (“*Knott*”). Applicants respectfully traverse these rejections for the reasons discussed below.

Applicants provide a reminder that “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 2 U.S.P.Q. 2d 1051, 1053 (Fed. Cir. 1987); M.P.E.P. § 2131. In addition, “[t]he elements *must* be arranged as required by the claim.” *Richardson v. Suzuki Motor Co.*, 9 U.S.P.Q. 2d 1913, 1920 (Fed. Cir. 1989); *In re Bond*, 15 U.S.P.Q. 2d 1566 (Fed. Cir. 1990); M.P.E.P. § 2131 (emphasis added).

A. *Knott* Does Not Anticipate Each and Every Limitation Recited in Claim 1

Applicants submit that amended Claim 1 is patentable over *Knott*. Among other features, amended Claim 1 recites, in part, “collecting from a client a first portion of data using a first data collection mechanism using at least a portion of a first script comprising one or more queries for information to the client.” Amended Claim 1 further recites, in part, “associating the client with a second data collection mechanism based at least in part on an event associated with the client’s interaction with the first data collection mechanism.” In addition, Claim 1 recites, in part, “after associating the client with the second data collection mechanism, collection from the client a second portion of data using a second script, wherein the second script comprises at least one query for information not yet presented to the client by the first script.” Amended Claim 1 also recites, in part, “populating at least a portion of the second script with at least some of the first portion of data.”

Knott fails to teach or suggest a number of elements of amended Claim 1. For example, nowhere does *Knott* discuss, teach, or suggest collecting a first portion of data using a first data collection mechanism using at least a portion of a first script and populating at least a portion of the second script, used by a second data collection mechanism, with at least some of the first portion of data. Consequently, *Knott* fails to teach or suggest at least “populating at least a portion of the second script with at least some of the first portion of data.”

In addition, contrary to the Examiners assertion, nowhere does *Knott* contemplate associating the client with a second data collection mechanism based at least in part on an event associated with the client’s interaction with the first data collection mechanism. *See Office Action at 5*. Moreover, nowhere does *Knott* disclose, teach, or suggest that after associating the client with the second data collection mechanism, collecting from the client a second portion of data using a second script that comprises at least one query for information not yet presented to the client by the first script. For example, referring to Figures 2 and 3, *Knott* discusses that IVR 10 operates to collect the information from a caller during the caller’s interaction with the “initial” menu node and that IVR 10 operates to collect information from the caller during the caller’s interaction with the “how to use” menu node. *See e.g.*, ¶¶0022-0037. Thus, to the extent that *Knott* discusses collecting data from a caller using a script, this discussion is limited to only IVR 10 collecting data from the caller. *See Id.*; *see also* ¶¶0017-0018, 0040; Figure 1. Consequently, *Knott* fails to teach or suggest at

least “associating the client with a second data collection mechanism based at least in part on an event associated with the client’s interaction with the first data collection mechanism” and “after associating the client with the second data collection mechanism, collection from the client a second portion of data using a second script, wherein the second script comprises at least one query for information not yet presented to the client by the first script.”

Applicants submit that amended independent Claim 1 is patentable over *Knott* for at least the reasons discussed above. Thus, Applicants respectfully request withdrawal of the rejection and full allowance of Claim 1 and all claims depending therefrom.

B. *Knott* Does Not Anticipate Each and Every Limitation Recited in Claim 21

Applicants submit that amended Claim 21 is patentable over *Knott*. Among other features, amended Claim 21 recites, in part, “collecting from a client a first portion of data using an automated data collection mechanism using at least a portion of a first script comprising one or more queries for information to the client.” Amended Claim 21 also recites, in part, “associating the client with a live agent based at least in part on an event associated with the client's interaction with the automated data collection mechanism.” In addition, amended Claim 21 recites that “after associating the client with the live agent, collecting a second portion of data from the client using a second script, wherein the second script comprises at least one query for information not yet presented to the client by the first script.” Moreover, amended Claim 21 recites, in part, “populating at least a portion of the second script with at least some of the first portion of data.”

Knott fails to teach or suggest a number of elements of amended Claim 21. For example, nowhere does *Knott* discuss, teach, or suggest collecting a first portion of data using a first data collection mechanism using at least a portion of a first script and populating at least a portion of the second script, used by a second data collection mechanism, with at least some of the first portion of data. Consequently, *Knott* fails to teach or suggest at least “populating at least a portion of the second script with at least some of the first portion of data.”

In addition, contrary to the Examiners assertion, nowhere does *Knott* contemplate that after associating the client with the live agent, collecting from the client a second portion of

data using a second script that comprises at least one query for information not yet presented to the client by the first script. To the extent that *Knott* discusses associating a caller with a live agent, this discussion is limited to merely providing that “[i]f a caller is unable to receive information from the automated responses of IVR 10, then the caller is forwarded to an operator 16 interfaced with IVR 10 for individual handling.” *See e.g.*, ¶0017; *see also* ¶0034 (“If a caller fails to select a recognized DTMF tone or utterance, the process proceeds to step 46 to allow the caller to select interaction with an operator.”). Thus, *Knott* fails to disclose, teach, or suggest how the caller interacts with the operator. Consequently, *Knott* fails to teach or suggest at least “after associating the client with the live agent, collecting a second portion of data from the client using a second script, wherein the second script comprises at least one query for information not yet presented to the client by the first script.”

Applicants submit that amended independent Claim 21 is patentable over *Knott* for at least the reasons discussed above. Thus, Applicants respectfully request withdrawal of the rejection and full allowance of Claim 21 and all claims depending therefrom.

C. *Knott* Does Not Anticipate Each and Every Limitation Recited in Claim 37

Applicants submit that Claim 37 is patentable over *Knott*. Among other features, Claim 37 recites, in part, “collecting from a client a first portion of data using a first data collection mechanism using at least a portion of a first script comprising one or more queries for information to the client.” Claim 37 also recites “associating the client with a second data collection mechanism based at least in part on an event associated with the client’s interaction with the first data collection mechanism.” In addition, Claim 37 recites, in part, “after associating the client with the second data collection mechanism, collecting from the client a second portion of data using a second script, wherein the first portion of data and the second portion of data are stored in a common memory accessible to the first and second data collection mechanisms.”

Knott fails to teach or suggest a number of elements of Claim 37. For example, nowhere does *Knott* contemplate that the first portion of data and the second portion of data are stored in a common memory accessible to the first and second data collection mechanisms. To the extent that *Knott* discusses anything that may be stored in memory, this discussion, at best, is limited to maintaining information that may be provided to the caller.

See e.g., ¶0019; *see also* ¶0037. The Examiner cites the following paragraph for the proposition that *Knott* discloses that the first portion of data and the second portion of data are stored in a common memory accessible to the first and second data collection mechanisms:

At step 58, IVR 10 retrieves the service information available for the area input by the caller. For instance, service offerings and functionality may vary based on service areas. At step 60, a script presents the caller with the types of information available for the selected service and instructs the caller to select desired information by either a voice utterance or DTMF selection. For instance, the caller is presented with four types of information for the identified service.

See Office Action at 14. However, contrary to the Examiner assertion, this paragraph, at best, identifies that the system in *Knott* maintains information that is provided to the caller. This paragraph does not contemplate collecting information from the caller and storing the collected information in a common memory accessible to the first and second data collection mechanisms. Consequently, *Knott* fails to teach or suggest at least that “the first portion of data and the second portion of data are stored in a common memory accessible to the first and second data collection mechanisms.”

In addition, as discussed above, nowhere does *Knott* contemplate associating the client with a second data collection mechanism based at least in part on an event associated with the client's interaction with the first data collection mechanism. Moreover, as discussed above, nowhere does *Knott* disclose, teach, or suggest that after associating the client with the second data collection mechanism, collecting from the client a second portion of data using a second script. For example, referring to Figures 2 and 3, *Knott* discusses that IVR 10 operates to collect the information from a caller during the caller's interaction with the “initial” menu node and that IVR 10 operates to collect information from the caller during the caller's interaction with the “how to use” menu node. *See e.g.*, ¶¶0022-0037. Thus, to the extent that *Knott* discusses collecting data from a caller using a script, this discussion is limited to only IVR 10 collecting data from the caller. *See Id.*; *see also* ¶¶0017-0018, 0040; Figure 1. Consequently, *Knott* fails to teach or suggest at least “associating the client with a second data collection mechanism based at least in part on an event associated with the client's interaction with the first data collection mechanism” and “after associating the client with the second data collection mechanism, collecting from the client a second portion of data using a second script.”

Applicants submit that independent Claim 37 is patentable over *Knott* for at least the reasons discussed above. Thus, Applicants respectfully request withdrawal of the rejection and full allowance of Claim 37 and all claims depending therefrom.

D. *Knott* Does Not Anticipate Each and Every Limitation Recited in Claim 56

Applicants submit that amended Claim 56 is patentable over *Knott*. Among other features, Claim 56 recites, in part, “collecting from a client a first portion of data using an automated data collection mechanism using at least a portion of a first script comprising one or more queries for information to the client.” Claim 56 also recites “associating the client with a live agent based at least in part on an event associated with the client's interaction with the automated data collection mechanism.” In addition Claim 56 recites “after associating the client with the live agent, collecting from the client a second portion of data using a second script, wherein the first portion of data and the second portion of data are stored in a common memory accessible to the automated data collection mechanism and the live agent.”

Knott fails to teach or suggest a number of elements of amended Claim 56. For example, as discussed above, nowhere does *Knott* contemplate that the first portion of data and the second portion of data are stored in a common memory accessible to the automated data collection mechanism and the live agent. To the extent that *Knott* discusses anything that may be stored in memory, this discussion, at best, is limited to maintaining information that may be provided to the caller. See e.g., ¶0019; see also ¶0037. Consequently, *Knott* fails to teach or suggest at least that “the first portion of data and the second portion of data are stored in a common memory accessible to the automated data collection mechanism and the live agent.”

In addition, as discussed above, nowhere does *Knott* teach that after associating the client with the live agent, collecting from the client a second portion of data using a second script. To the extent that *Knott* discusses associating a caller with a live agent, this discussion is limited to merely providing that “[i]f a caller is unable to receive information from the automated responses of IVR 10, then the caller is forwarded to an operator 16 interfaced with IVR 10 for individual handling.” See e.g., ¶0017; see also ¶0034. Consequently, *Knott* fails to teach or suggest at least “after associating the client with the live agent, collecting from the client a second portion of data using a second script.”

Applicants submit that amended independent Claim 56 is patentable over *Knott* for at least the reasons discussed above. Thus, Applicants respectfully request withdrawal of the rejection and full allowance of Claim 56 and all claims depending therefrom.

E. *Knott* Does Not Anticipate Each and Every Limitation Recited in Claim 66

Applicants submit that Claim 66 is patentable over *Knott*. Among other features, Claim 66 recites, in part, “collecting from a client a first portion of data using a first data collection mechanism using at least a portion of a first script comprising one or more queries for information to the client.” Claim 66 also recites “associating the client with a second data collection mechanism based at least in part on an event associated with the client's interaction with the first data collection mechanism.” Claim 66 further recites, in part, “after associating the client with the second data collection mechanism, collecting from the client a second portion of data, the second portion of data comprising a plurality of answers of the client in response to one or more queries of the second data collection mechanism.” In addition, Claim 66 recites, in part, “associating the client and at least some of the second portion of data with the first data collection mechanism to facilitate collection of a third portion of data using the first script.”

Knott fails to teach or suggest a number of elements of Claim 66. For example, as discussed above, nowhere does *Knott* contemplate associating the client with a second data collection mechanism based at least in part on an event associated with the client's interaction with the first data collection mechanism. Moreover, nowhere does *Knott* disclose, teach, or suggest that after associating the client with the second data collection mechanism, collecting from the client a second portion of data using a second script that comprises at least one query for information not yet presented to the client by the first script. *Knott* also fails to disclose, teach, or suggest associating the client and at least some of the second portion of data, collected by the second data collection mechanism, with the first data collection mechanism to facilitate collection of a third portion of data using the first script. For example, referring to Figures 2 and 3, *Knott* discusses that IVR 10 operates to collect the information from a caller during the caller's interaction with the “initial” menu node and that IVR 10 operates to collect information from the caller during the caller's interaction with the “how to use” menu node. See e.g., ¶¶0022-0037. Thus, to the extent that *Knott* discusses collecting data from a caller using a script, this discussion is limited to only IVR 10 collecting data from the caller. See *Id.*; see also ¶¶0017-0018, 0040; Figure 1. Consequently, *Knott* fails to teach or suggest at

least “associating the client with a second data collection mechanism based at least in part on an event associated with the client’s interaction with the first data collection mechanism”; “after associating the client with the second data collection mechanism, collection from the client a second portion of data using a second script, wherein the second script comprises at least one query for information not yet presented to the client by the first script”; and “associating the client and at least some of the second portion of data with the first data collection mechanism to facilitate collection of a third portion of data using the first script.”

Applicants submit that independent Claim 66 is patentable over *Knott* for at least the reasons discussed above. Thus, Applicants respectfully request withdrawal of the rejection and full allowance of Claim 66 and all claims depending therefrom.

Claim Rejection 35 U.S.C. § 103

The Examiner rejected Claims 3, 7, 11, 23, 27, 42, 46, 69, and 76 under 35 U.S.C. § 103(a) as being unpatentable over *Knott* in view of article, “Designing and Developing Surveys on WWW Sites,” by Feinberg et al (“*Feinberg*”). The Examiner also rejected Claims 13, 19, 29, 35, 48, 54, 61, 65, and 78 under 35 U.S.C. § 103(a) as being unpatentable over *Knott* in view of U.S. Pre-Grant Publication 2003/0092976 to Murase et al. (“*Murase*”). The Examiner also rejected Claims 20, 36, 55, and 81 under 35 U.S.C. § 103(a) as being unpatentable over *Knott* in view of U.S. Patent 6,654,447 by Dewan (“*Dewan*”). Applicants respectfully traverse these rejections for the reasons discussed below.

A. The Proposed Combinations Fail to Disclose, Teach, or Suggest Each and Every Limitation Recited in the Independent and Dependent Claims

Applicants provide a reminder that to defeat a patent under 35 U.S.C. § 103, “the prior art references must teach, disclose, or suggest all the claim limitations.” *In re Vaeck*, 947 F.2d 488 (Fed. Cir. 1991); M.P.E.P. § 706.02(j). Applicants respectfully submit that none of the cited references, taken alone or in combination, teach or suggest, either expressly or inherently, a number of elements of the independent or dependent Claims.

Dependent Claims 3, 7, 11, 23, 27, 42, 46, 69, and 76 depend from independent Claims 1, 21, 37, and 66, which Applicants have shown above to be clearly allowable over *Knott*. *Feinberg* fails to atone of the deficiencies of *Knott*. In addition, dependent Claims 13, 19, 29, 35, 48, 54, 61, 65, and 78 depend from independent Claims 1, 21, 37, 56, and 66, which Applicants have shown above to be clearly allowable over *Knott*. *Murase* fails to

atone of the deficiencies of *Knott*. Moreover, dependent Claims 20, 36, 55, and 81 depend from independent Claims 1, 21, 37, and 66, which Applicants have shown above to be clearly allowable over *Knott*. *Dewan* fails to atone of the deficiencies of *Knott*. Thus, dependent Claims 3, 7, 11, 13, 19, 20, 23, 27, 29, 35, 36, 42, 46, 48, 54, 55, 61, 65, 69, 76, 78 and 81 are allowable at least because of they depend from allowable independent claims. To avoid burdening the record and in view of the clear allowability of independent Claims 1, 21, 37, 56, and 66, Applicants do not specifically discuss these distinctions in this Response. However, Applicants reserve the right to discuss these distinctions in a future Response or on Appeal, if appropriate. Additionally, Applicants do not admit that the proposed combinations of *Knott* with *Feinberg*, *Murase*, or *Dewan* is even possible or that the Examiner has shown the requisite teaching, suggestion, or motivation in the cited references or in the knowledge generally available to one of ordinary skill in the art at the time of invention to combine or modify these references in the manner the Examiner proposes.

B. Conclusion

For at least these reasons, Applicants respectfully request reconsideration and allowance of independent Claims 1, 21, 37, 56, 66, and their dependent claims.

No Waiver

All of Applicants' arguments and amendments are without prejudice or disclaimer. Additionally, Applicants have merely discussed example distinctions from the *Knott*, *Murase*, *Feinberg*, and *Dewan* references. Other distinctions may exist, and Applicants reserve the right to discuss these additional distinctions in a later Response or on Appeal, if appropriate. By not responding to additional statements made by the Examiner, Applicants do not acquiesce to the Examiner's additional statements. The example distinctions discussed by Applicants are sufficient to overcome the anticipation and obviousness rejections.

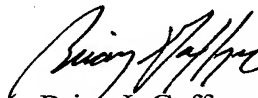
CONCLUSION

Applicants have made an earnest attempt to place this case in condition for allowance. For the foregoing reasons and for other reasons clearly apparent, Applicants respectfully request reconsideration and full allowance of all pending Claims.

The Commissioner is hereby authorized to charge the fee of \$100.00 for filing one additional independent claim over 3 to Deposit Account No. 02-0384 of Baker Botts L.L.P. The Commissioner is also authorized to charge any additional fee or credit any overpayment to Deposit Account No. 02-0384 of Baker Botts L.L.P.

If the Examiner feels that a conference would advance prosecution of this Application in any manner, Brian J. Gaffney stands willing to conduct such a telephone interview at the convenience of the Examiner. Mr. Gaffney may be reached at 214-953-6682.

Respectfully submitted,
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